



Subsidiarity & Proportionality Assessment Grid

Name of the Authority:	Hellenic Parliament
Primary contact person:	
Title of document:	Proposal for a directive of the European Parliament and the Council on the application of patients' rights in cross border healthcare
Reference: (e.g. COM(2005)112)	COM (2008) 414

<p>1. Legal basis & type of competence:</p> <p>a) Objective(s) of the document.</p> <p>b) On which Treaty article(s) is the document based? If you consider the legal basis inappropriate, please give reasons.</p> <p>c) Does the proposed action fall within the European Community's competences? Is such competence exclusive or shared between the Community and the Member States¹?</p>	<p>a) The objective of the proposed directive is to facilitate factor mobility (in the form of patient mobility), so as to enhance the efficient operation of the single European market. The means to achieve this is by enabling patients to seek treatment in another EU member-state and be reimbursed for that, as if they were treated at home. To this end, the directive sets a clear framework of rights as well as minimum quality standards.</p> <p>b) The legal basis is appropriate. It relies on Article 95 of the EC Treaty on the convergence of national legislative acts necessary for the establishment and functioning of the internal market.</p> <p>c) The proposed action falls in the domain of shared competences between the European Union and member-states. For that reason, a compliance check of the principle of subsidiarity is necessary.</p>
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<p>2. Subsidiarity principle</p> <p>Should action be taken at European level, because (a) such action is necessary insofar as the Member States (either at the central or at regional and local levels) cannot sufficiently achieve the objective of the proposed measure, and</p>	<p>i). The proposed action only codifies and integrates existing case law of the ECJ. Its raison d' être is to organise collectively and efficiently cross-border aspects of health treatment within the single European market. That is to say, the proposed action regulates existing patterns of patient choices. In that respect, it enhances subsidiarity, as it is necessary in order to</p>
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¹ If the competence is exclusive, the subsidiarity principle does not apply. If this is the case, please go directly to the proportionality section of this questionnaire.

<p>(b) such action would have a clear benefit by reason of its scale or effects? Please provide a reasoned answer to the above question while giving consideration to the following:</p> <ul style="list-style-type: none"> i) whether the issue being addressed has trans-national aspects that cannot be properly regulated by action of Member States and/ or their local and regional authorities; ii) whether action by Member States alone would conflict with the requirements of the Treaty or would otherwise significantly damage the Member States' interests; iii) whether existing Community measures or targeted assistance provided hereunder would be sufficient to achieve the intended objectives. 	<p>ameliorate the capacity of national governments to run their social security and health systems by internalising through cooperation cross-border externalities.</p> <ul style="list-style-type: none"> ii). If such a cooperation were not sought through the proposed draft directive and national interests were not accordingly aligned at a minimum in this particular policy domain, then national action could indeed conflict with either other member-states' interests or with the Treaty. iii). Given the principle of subsidiarity, the proposed action would suffice to meet the intended objectives which relate to observed (ex post) patient behaviour.

<p>3. Proportionality principle:</p> <p>a) Do the proposed measures go beyond what is necessary to satisfactorily achieve the intended objectives? Please provide a reasoned answer while giving consideration to the following elements:</p> <ul style="list-style-type: none"> i) whether the proposed form of action is as straightforward as possible (for example directives should be preferred to regulations and framework directives to detailed measures). ii) whether the proposed action leaves as much room for national decision as possible. iii) whether the proposed measures take account of well established national arrangements and special circumstances applying in your Member State or region (e.g. the organisation and functioning of the legal system). <p>b) If you consider that the proposed measures indeed go further than what is necessary, what would you consider to be a less restrictive, alternative way to achieve the intended objectives?</p>	<p>The proposed draft directive is complementary to existing legislation and straightforward in its scope of action. Cross-border patient mobility entails externalities which cannot be tackled at the national level. In that respect, EU action is required. The proposed EU action is limited to that particular dimension of health treatment (i.e. the modalities of cross-border patient mobility).</p> <p>In general, however, lack of consistent, comparable, regularly updated and reliable data on patient mobility across the EU (no patient-mobility data-base) distorts our knowledge of the actual breadth and depth of the problem that the draft directive under scrutiny endeavours to tackle. In that respect, the explicit assessment of the proportionality of the means put into place by this draft directive in order to attain the stated objective retains a degree of obscurity, so far as that objective is other than necessary legal certainty and clarity in a particular EU-wide policy domain. As a final comment, the suggested policy means remain at the lowest possible level, apparently with a view to not interfering with the principle of proportionality.</p>
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<p><u>4. Financial and/or administrative burden:</u></p> <p>a) Please indicate whether the financial and/or administrative burden falling upon the European Community, national governments, regional and local authorities, economic operators and citizens is commensurate to the objectives of the proposal and whether it has been kept to an absolute minimum.</p> <p>b) If the relevant data is available to you, please provide an estimation of the financial and/ or administrative burden the implementation of the present proposal would entail for your administration and/ or in the territory of your local or regional authority.</p>	<p>a). The proposed directive entails a series of administrative rearrangements in our national health system, some of which are expected to have a considerable financial burden. However, all these actions are considered to be necessary for modernising the system and improving the supply of health services.</p> <p>b). There is no consistent data available at this point in time.</p>
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Better Regulation & Preparation of the proposal	
<p><u>5. Consideration of local and regional factors in the impact assessment and consultation</u></p> <p>a) Has a comprehensive impact assessment been presented, which takes into account local and regional aspects?</p> <p>b) Have local and regional authorities been adequately consulted prior to the adoption of the proposal? In case you have participated in such a consultation, please specify the practical details of your participation and provide an assessment of your experience.</p>	<p>a) As mentioned above, an impact assessment relying on consistent statistical data would have ameliorated our evaluation of the proposal for a directive.</p>
<p><u>6. Quality of the arguments provided:</u></p> <p>a) Does the proposal provide clear, adequate and convincing arguments to justify its compliance with the subsidiarity and proportionality principles?</p> <p>b) Are these arguments based on qualitative as well as quantitative indicators?</p>	<p>a) The arguments are detailed and convincing.</p> <p>b) Quantitative indicators –especially for justification of proportionality- are deemed to be inadequate.</p>
<p><u>Further comments</u></p> <p>Please feel free to provide additional feedback on the overall quality of the proposal, i.e. clarity of drafting, simplicity of implementation at the regional and local level, need for a more thorough debate within the course of the legislative process on the financial/ and</p>	

or administrative burden the proposal would entail, suitability of the envisaged action with regard to the intended objectives etc.	
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